

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

HACHETTE BOOK GROUP, INC.,
HARPERCOLLINS PUBLISHERS LLC,
JOHN WILEY & SONS, INC., and
PENGUIN RANDOM HOUSE LLC

Plaintiffs,

v.

INTERNET ARCHIVE and DOES 1 through
5, inclusive

Defendants.

Case No. 1:20-CV-04160-JGK

**DECLARATION OF JOSEPH C. GRATZ IN SUPPORT OF DEFENDANT INTERNET
ARCHIVE'S REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

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INTERNET ARCHIVE

I, Joseph C. Gratz, declare as follows:

1. I am an attorney licensed to practice in the State of California and represent Defendant Internet Archive in this matter. I make this declaration from personal knowledge, and if called to testify, I could and would testify competently to the facts stated herein.

2. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts of the transcript of the deposition of Dr. Jeffrey T. Prince, taken on June 9, 2022.

3. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts of the transcript of the deposition of Dr. Rasmus Jørgensen, taken on June 8, 2022.

4. On September 29, 2022, the organization Fight for the Future published an open letter, titled “Authors For Libraries,” with hundreds of author signatories. The open letter is available at the following link: <https://www.fightforthefuture.org/Authors-For-Libraries>. Below is a list of a subset of the letter’s signatories, as of October 6, 2022, identifying an example of one of their books published by Plaintiffs or their imprints. Where multiple authors contributed to a book, the signatory is in bold.

1. [Neil Gaiman, *American Gods* \(2001\) \(published by William Morrow, an imprint of Plaintiff HarperCollins\).](#)
2. [Alok Vaid-Menon, *Beyond the Gender Binary* \(2020\) \(published by Penguin Workshop, an imprint of Plaintiff Penguin Random House\).](#)
3. [Jaya Saxena & **Mattie Lubchansky**, *Dad Magazine* \(2016\) \(published by Quirk Books, an imprint of Plaintiff Penguin Random House\).](#)
4. [Kyle Lukoff, *Too Bright to See* \(2022\) \(published by Dial Books, an imprint of Plaintiff Penguin Random House\).](#)
5. [Chuck Wendig, *Dust & Grim* \(2022\) \(published by Little, Brown Young Readers, an](#)

imprint of Plaintiff Hachette).

6. Hanif Abdurraqib, *A Little Devil in America* (2022) (published by Random House Trade Paperbacks, an imprint of Plaintiff Penguin Random House).
7. Mark Bray, *Antifa* (2017) (published by Melville House, an imprint of Plaintiff Penguin Random House).
8. Annalee Newitz, *Scatter, Adapt, and Remember* (2014) (published by Anchor, an imprint of Plaintiff Penguin Random House).
9. Marwan Hisham & **Molly Crabapple**, *Brothers of the Gun* (2018) (published by One World, an imprint of Plaintiff Penguin Random House).
10. Torrey Peters, *Detransition, Baby* (2021) (published by One World, an imprint of Plaintiff Penguin Random House).
11. Hugh Ryan, *The Women's House of Detention* (2022) (published by Bold Type Books, an imprint of Plaintiff Hachette).
12. Baratunde Thurston, *How to Be Black* (2012) (published by Harper Paperbacks, an imprint of Plaintiff HarperCollins).
13. Alyssa Milano, *Safe at Home* (2010) (published by It Books, an imprint of Plaintiff HarperCollins).
14. Franny Choi, *The World Keeps Ending, and the World Goes On* (2022) (published by Ecco, an imprint of Plaintiff HarperCollins).
15. Lawrence Lessig, *Republic, Lost* (2015) (published by Twelve, an imprint of Plaintiff Hachette).
16. Daniel Ellsberg, *Secrets* (2003) (published by Penguin Books, an imprint of Plaintiff Penguin Random House).

17. [Medea Benjamin, *Don't Be Afraid, Gringo: A Honduran Woman Speaks from the Heart* \(1989\) \(published by Harper Perennial, an imprint of Plaintiff HarperCollins\).](#)
18. [Roger McNamee, *Zucked: Waking Up to the Facebook Catastrophe* \(2019\) \(published by Penguin Press, an imprint of Plaintiff Penguin Random House\).](#)
19. [Amanda Palmer, *The Art of Asking: How I Learned to Stop Worrying and Let People Help* \(2014\) \(published by Grand Central Publishing, an imprint of Plaintiff Hachette\).](#)
20. [Ben Karlin, **David Wain**, et al., *Things I've Learned from Women Who've Dumped Me* \(2008\) \(published by Grand Central Publishing, an imprint of Plaintiff Hachette\).](#)
21. [John Markoff, *Whole Earth* \(2022\) \(published by Penguin Press, an imprint of Plaintiff Penguin Random House\).](#)
22. [Sam Sax, *Madness* \(2017\) \(published by Penguin Books, an imprint of Plaintiff Penguin Random House\).](#)
23. [Nathan Schneider, *Everything for Everyone* \(2018\) \(published by Bold Type Books, an imprint of Plaintiff Hachette\).](#)
24. [Diana Rosen, *How to Keep a Dream Journal* \(2004\) \(published by Workman, an imprint of Plaintiff Hachette\).](#)
25. [Emma Copley Eisenberg, *The Third Rainbow Girl: The Long Life of a Double Murder in Appalachia* \(2020\) \(published by Hachette Books, an imprint of Plaintiff Hachette\).](#)
26. [David J. Farber, *Delivering Internet Connections over Cable: Breaking the Access Barrier* \(2002\) \(published by Plaintiff Wiley\).](#)
27. [Olivia Gatwood, *Life of the Party* \(2019\) \(published by Dial Press, an imprint of Plaintiff Penguin Random House\).](#)

28. [Jonathan Rosenberg, *Trillion Dollar Coach* \(2019\) \(published by Harper Business, an imprint of Plaintiff HarperCollins\).](#)
29. [Brink Lindsey, *The Age of Abundance* \(2008\) \(published by Harper Business, an imprint of Plaintiff HarperCollins\).](#)
30. [Dan Gillmor, et al., *The Chuetrain Manifesto \(10th Anniversary Edition\)* \(2011\) \(published by Basic Books, an imprint of Plaintiff Hachette\).](#)
31. [Prisca Dorcas Mojica Rodriguez, *For Brown Girls with Sharp Edges and Tender Hearts* \(2021\) \(published by Seal Press, an imprint of Plaintiff Hachette\).](#)
32. [Eula Biss, *Having and Being Had* \(2021\) \(published by Riverhead Books, an imprint of Plaintiff Penguin Random House\).](#)
33. [Scott Carney, *The Red Market* \(2011\) \(published by William Morrow, an imprint of Plaintiff HarperCollins\).](#)
34. [Robin Marty, *New Handbook for a Post-Roe America* \(2021\) \(published by Seven Stories Press, an imprint of Plaintiff Penguin Random House\).](#)
35. [Spencer Ackerman, *Reign of Terror* \(2022\) \(published by Penguin Books, an imprint of Plaintiff Penguin Random House\).](#)
36. [Lucy Bernholz, *Creating Philanthropic Capital Markets: The Deliberate Evolution* \(2004\) \(published by Plaintiff Wiley\).](#)
37. [Juhea Kim, *Beasts of a Little Land* \(2021\) \(published by Ecco, an imprint of Plaintiff HarperCollins\).](#)
38. [Julian Randall, *Designing Indoor Solar Products: Photovoltaic Technologies for AES* \(2005\) \(published by Plaintiff Wiley\).](#)

39. [David Weinberger, *Too Big To Know* \(2014\) \(published by Basic Books, an imprint of Plaintiff Hachette Book Group\).](#)
40. [David Wondrich, *Imbibe!* \(2015\) \(published by TarcherPerigee, an imprint of Plaintiff Penguin Random House\).](#)
41. [Ilana Masad, *All My Mother's Lovers* \(2021\) \(published by Dutton, an imprint of Plaintiff Penguin Random House\).](#)
42. [Micah Sifry, *Is That A Politician In Your Pocket* \(2004\) \(published by Plaintiff Wiley\).](#)
43. [Douglas Rushkoff, *Bet Back In The Box* \(2010\) \(published by HarperCollins ebooks, an imprint of Plaintiff HarperCollins\).](#)
44. [Jillian York, *Silicon Values* \(2022\) \(published by Verso, an imprint of Plaintiff Penguin Random House\).](#)
45. [Ashton Applewhite, *Cutting Loose* \(2017\) \(published by Harper Paperbacks, an imprint of Plaintiff HarperCollins\).](#)
46. [Bruce Schneier, *Applied Cryptography: Protocols, Algorithms and Source Code in C, 20th Anniversary Edition* \(2015\) \(published by Plaintiff Wiley\).](#)
47. [Morgan Parker, *Who Put This Song On?* \(2021\) \(published by Delacorte Press, an imprint of Plaintiff Penguin Random House\).](#)
48. [John Palfrey, *Interop* \(2012\) \(published by Basic Books, an imprint of Plaintiff Hachette Book Group\).](#)
49. [Jeff Sharlet, *The Family* \(2009\) \(published by Harper Perennial, an imprint of Plaintiff HarperCollins\).](#)
50. [Adrienne Lawrence, *Staying in the Game* \(2020\) \(published by TarcherPerigee, an imprint of Plaintiff Penguin Random House\).](#)

51. [Jessie Daniels, *Nice White Ladies* \(2021\) \(published by Seal Press, an imprint of Plaintiff Hachette\).](#)
52. [Porochista Khakpour, *Sick* \(2018\) \(published by Harper Perennial, an imprint of Plaintiff HarperCollins\).](#)
53. [Siva Vaidhyanathan, *The Anarchist in the Library* \(2005\) \(published by Basic Books, an imprint of Plaintiff Hachette\).](#)
54. [Matt Haig, *The Comfort Book* \(2021\) \(published by Penguin Life, an imprint of Plaintiff Penguin Random House\).](#)
55. [Kate Bornstein, *Gender Outlaw* \(2016\) \(published by Vintage, an imprint of Plaintiff Penguin Random House\).](#)
56. [Andre Henry, *All the White Friends I Couldn't Keep* \(2022\) \(published by Convergent Books, an imprint of Plaintiff Penguin Random House\).](#)
57. [Kon Karapanagiotidis, *The Power of Hope* \(2018\) \(published by HarperCollins, an imprint of Plaintiff HarperCollins\).](#)
58. [Tom Franklin & **Beth Ann Fennelly**, *The Tilted World* \(2014\) \(published by William Morrow Paperbacks, an imprint of Plaintiff HarperCollins\).](#)
59. [Rebecca MacKinnon, *Consent of the Networked* \(2013\) \(published by Basic Books, an imprint of Plaintiff Hachette\).](#)
60. [Mike Godwin, *Cyber Rights* \(1998\) \(published by Crown Business, an imprint of Plaintiff Penguin Random House\).](#)
61. [Jonathan Lazar, Jinjuan Heidi Feng, **Harry Hochheiser**, *Research Methods in Human-Computer Interaction* \(2011\) \(published by Plaintiff Wiley\).](#)

62. [Amy Sample Ward, *Social Change Anytime Everywhere* \(2013\) \(published by Jossey-Bass, an imprint of Plaintiff Wiley\).](#)
63. [Nikita Gill, *The Girl and the Goddess* \(2020\) \(published by G.P. Putnam's Sons, an imprint of Plaintiff Penguin Random House\).](#)
64. [Michelangelo Signorile, *It's Not Over* \(2016\) \(published by HarperOne, an imprint of Plaintiff HarperCollins\).](#)
65. [Mahogany L. Browne, *Vinyl Moon* \(2022\) \(published by Crown Books for Young Readers, an imprint of Plaintiff Penguin Random House\).](#)
66. [Norman Solomon, ed., *The Talmud: A Selection* \(2009\) \(published by Penguin Classics, an imprint of Plaintiff Penguin Random House\).](#)
67. [Amanda Joy, *A Queen of Gilded Horns* \(2022\) \(published by G.P. Putnam's Sons Books, an imprint of Plaintiff Penguin Random House\).](#)
68. [Sonia Guiñansaca, *Somewhere We Are Human* \(2022\) \(published by HarperVia, an imprint of Plaintiff HarperCollins\).](#)
69. [Barbara Fister, *On Edge* \(2008\) \(published by Dell, an imprint of Plaintiff Penguin Random House\).](#)
70. [Dana Mele, *People Like Us* \(2018\) \(published by Putnam's Sons Books, an imprint of Plaintiff Penguin Random House\).](#)
71. [Amy Banks, *Wired to Connect* \(2016\) \(published by TarcherPerigee, an imprint of Plaintiff Penguin Random House\).](#)
72. [Gabriella Coleman, *Hacker, Hoaxer, Whistleblower, Spy* \(2015\) \(published by Verso, an imprint of Plaintiff Penguin Random House\).](#)

73. [Maureen Johnson, *Truly Devious* \(2018\) \(published by Katherine Tegen Books, an imprint of Plaintiff HarperCollins\).](#)
74. [Kim Werker, *Crochet Me* \(2013\) \(published by Interweave, an imprint of Plaintiff Penguin Random House\).](#)
75. [Xiran Jay Zhao, *Iron Widow* \(2021\) \(published by Penguin Teen Canada, an imprint of Plaintiff Penguin Random House\).](#)
76. [Parmy Olson, *We Are Anonymous* \(2013\) \(published by Back Bay Books, an imprint of Plaintiff Hachette\).](#)
77. [**Richard F. Forno**, Laura K. Mateczun, Donald F. Norris, *Cybersecurity and Local Government* \(2022\) \(published by Plaintiff Wiley\).](#)
78. [Emma Robinson, *My Husband's Daughter* \(2022\) \(published by Forever, an imprint of Plaintiff Hachette\).](#)
79. [Jen Kramer, *Joomla! 24-Hour Trainer* \(2011\) \(published by Plaintiff Wiley\).](#)
80. [**Gareth Halfacree**, Eben Upton, *Raspberry Pi User Guide, 3rd Edition* \(2014\) \(published by Plaintiff Wiley\).](#)
81. [Jerry Weinstein, Tom Alston, *Baseball Coach's Survival Guide: Practical Techniques and Materials for Building an Effective Program and a Winning Team* \(1998\) \(published by Plaintiff Wiley\).](#)
82. [Stephanie Kate Strohm, *Love à la Mode* \(2019\) \(published by Little, Brown, an imprint of Plaintiff Hachette\).](#)
83. [Jane Hosie-Bounar, *Life Belts* \(1993\) \(published by Delacorte Books for Young Readers, an imprint of Plaintiff Penguin Random House\).](#)

84. [Ellis Weiner, *Yiddish with George and Laura* \(2008\) \(published by Little, Brown, an imprint of Plaintiff Hachette\).](#)
85. [LJ Alonge \(Lanre Akinsiku\), *Blacktop: Justin #1* \(2016\) \(published by Grosset & Dunlap, an imprint of Plaintiff Penguin Random House\).](#)
86. [James Hannaham, *Delicious Foods* \(2016\) \(published by Little, Brown, an imprint of Plaintiff Hachette\).](#)
87. [Glyn Moody, *Rebel Code* \(2002\) \(published by Basic Books, an imprint of Plaintiff Hachette\).](#)
88. [Carla Power, *Home, Land, Security* \(2021\) \(published by One World, an imprint of Plaintiff Penguin Random House\).](#)
89. [Mercedes Lackey, *Beyond* \(2021\) \(published by DAW, an imprint of Plaintiff Penguin Random House\).](#)
90. [Marilyn Stasio, *Broadway's Beautiful Losers* \(1972\) \(published by Delacorte, an imprint of Plaintiff Penguin Random House\).](#)
91. [James Lee Burke, *Sunset Limited* \(1999\) \(published by Island Books, an imprint of Plaintiff Penguin RandomHouse\).](#)
92. [Randy Cassingham, *The True Stella Awards* \(2006\) \(published by Plume, an imprint of Plaintiff Penguin Random House\).](#)
93. [Barry Wittenstein, *Oscar's American Dream* \(2020\) \(published by Schwartz & Wade, an imprint of Plaintiff Penguin Random House\).](#)
94. [Alanna Coca, *PreView* \(2011\) \(published by Harlequin, an imprint of Plaintiff HarperCollins\).](#)

95. [Constance Penley, *NASA/TREK* \(1997\) \(published by Verso, an imprint of Plaintiff Penguin Random House\).](#)
96. [Ross Anderson, *Security Engineering: A Guide to Building Dependable Distributed Systems, 3rd Edition* \(2020\) \(published by Plaintiff Wiley\).](#)
97. [Joe Cribb, *DK Eyewitness Books: Money* \(2016\) \(published by DK Children, an imprint of Plaintiff Penguin Random House\).](#)
98. [Cecil Castellucci, *The PLAIN Janes* \(2020\) \(published by Little, Brown, an imprint of Plaintiff Hachette\).](#)
99. [Mary Doria Russell, *Dreamers of the Day* \(2008\) \(published by Ballantine Books, an imprint of Plaintiff Penguin Random House\).](#)
100. [Perry Carpenter, *Transformational Security Awareness: What Neuroscientists, Storytellers, and Marketers Can Teach Us About Driving Secure Behaviors* \(2019\) \(published by Plaintiff Wiley\).](#)
101. [Charlie Connelly, *Constance Street: The true story of one family and one street in London's East End* \(2015\) \(published by HarperElement, an imprint of Plaintiff HarperCollins\).](#)
102. [Jeff Jarvis, *What Would Google Do?* \(2011\) \(published by Harper Business, an imprint of Plaintiff HarperCollins\).](#)
103. [C.C. Chapman, *Amazing Things Will Happen: A Real-World Guide on Achieving Success and Happiness* \(2012\) \(published by Wiley, an imprint of Plaintiff Wiley\).](#)
104. [Eric Nusbaum, *Stealing Home* \(2021\) \(published by PublicAffairs, an imprint of Plaintiff Hachette\).](#)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 7, 2022, in Rome, Italy.

/s/ Joseph C. Gratz
JOSEPH C. GRATZ

CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2022 the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing to the attorneys of record in this case.

/s/ Joseph C. Gratz

JOSEPH C. GRATZ